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## NOTICE OF ALLOWANCE AND FEE(S) DUE

20991 7590 11/04/2010

THE DIRECTV GROUP, INC.  
PATENT DOCKET ADMINISTRATION  
CA / LA1 / A109  
2230 E. IMPERIAL HIGHWAY  
EL SEGUNDO, CA 90245

EXAMINER	
FAULK, DEVONA E	
ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 11/04/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,952	09/12/2003	Thomas H. James	PD-202107	7018

TITLE OF INVENTION: AUTOMATIC MEASUREMENT OF AUDIO PRESENCE AND LEVEL BY DIRECT PROCESSING OF AN MPEG DATA STREAM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	02/04/2011

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**  
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**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the **Mail Stop ISSUE FEE** address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,952	09/12/2003	Thomas H. James	PD-202107	7018

**TITLE OF INVENTION:** AUTOMATIC MEASUREMENT OF AUDIO PRESENCE AND LEVEL BY DIRECT PROCESSING OF AN MPEG DATA STREAM

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nonprovisional	NO	\$1510	\$0	\$0	\$1510	02/04/2011
EXAMINER	ART UNIT	CLASS-SUBCLASS				
FAULK, DEVONA E		2614	381-056000			

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent):  Individual  Corporation or other private group entity  Government

4a. The following fee(s) are submitted:

Issue Fee  
 Publication Fee (No small entity discount permitted)  
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4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

A check is enclosed.  
 Payment by credit card. Form PTO-2038 is attached.  
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.  b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

FAULK, DEVONA E

ART UNIT

PAPER NUMBER

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## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 510 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 510 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/660,952	JAMES ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DEVONA E. FAULK	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed on 9/8/10.
2.  The allowed claim(s) is/are 1,2,4-8,10,11,13-17,28 and 30.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 9/8/10 have been fully considered but they are not persuasive.
2. The applicant agreed to an examiner's amendment to place the claims in allowable form.
3. The applicant cancelled claims 29,31 and 33 to overcome the 112 rejection set forth in the previous office action.
4. Claims 3,9,12,18,21,27,29,31 and 33 are cancelled.

## **EXAMINER'S AMENDMENT**

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Todd N. Snyder (Reg. NO. 41,320) on 9/29/10.

### **The claims are to be amended as follows:**

**Claims 19,20,22-26 and 32: CANCEL.**

**Claim 1 is to be amended to recite the following:**

A method of automatic measurement of audio presence and level by direct processing of a data stream representing an audio signal in a processor, comprising:

- (a) extracting, in the processor, sub-band data from the data stream;
- (b) dequantizing and denormalizing, in the processor, the extracted sub-band data;
- (c) measuring, in the processor, an audio level for the dequantized and denormalized sub-band data without reconstructing the audio signal using channel characteristics;
- (d) comparing, in the processor, the measured audio level against one or more thresholds;

and

- (e) triggering, in the processor, an alarm as determined by the comparing step (d), wherein the one or more thresholds are set to generate the alarm based on: ~~(1) loss of the audio signal in the data stream or (2)~~ when an average of the audio level in the data stream is too high or too low, in order to monitor the audio presence and level within the data stream and to adjust the audio level as desired.

**Claim 10 is to be amended to recite the following:**

In a processor, an apparatus for automatic measurement of audio presence and level by direct processing of a data stream representing an audio signal, comprising:

- (a) means for extracting sub-band data from the data stream;
- (b) means for dequantizing and denormalizing the extracted sub-band data;
- (c) means for measuring an audio level for the dequantized and denormalized sub-band data without reconstructing the audio signal using channel characteristics;

(d) means for comparing the measured audio level against one or more thresholds; and  
(e) means for triggering an alarm as determined by the means for comparing (d),  
wherein the one or more thresholds are set to generate the alarm based on: ~~(1) loss of the audio signal in the data stream or (2)~~ when an average of the audio level in the data stream is too high or too low, in order to monitor the audio presence and level within the data stream and to adjust the audio level as desired.

***Allowable Subject Matter***

6. Claims 1,2,4-8,10,11,12-17,28 and 30 are allowed.
7. The following is an examiner's statement of reasons for allowance:
8. Regarding claims 1 and 10, prior art McDowell (US 6,931,370) discloses a method of automatic measurement of audio presence and level by direct processing of a data stream representing an audio signal, comprising:
  - (a) extracting sub-band data from the data stream (column 3, lines 24-28; column 10, lines 35-45; implicit) ;
  - (b) dequantizing and denormalizing the extracted sub-band data (step 126 Figure 9; column 11, lines 6-11);
  - (c) measuring an audio level for the dequantized and denormalized sub-band data without reconstructing the audio signal using channel characteristics (step 130 Figure 9; column 11, lines 58-62; characteristic is defined as a distinguishing feature, quality or property. The examiner asserts that the sub-band data reads on channel characteristics since the sub-band data is implicitly unique to its input signal); and

(d) comparing the measured audio level against at least one or more thresholds (step 136 Figure 9; column 12, lines 3-8).

Prior art Friedman (US 5,337,041) discloses a means for triggering an alarm when the threshold is exceeded (column 10, line 65-column 11, line 7; specifically Friedman teaches of an alarm that is triggered when a modulated audio tone is detected as exceeding a preset threshold). Prior art Petrillo (US 6,429,779) discloses the concept of an alarm being generated based on the loss of a signal is well known in the art as taught by Petrillo (column 4, lines 16-25).

Regarding claims 1 and 10, the prior art or combination thereof fails to make obvious or disclose the invention as a whole and in particular, triggering, in the processor, an alarm as determined by the comparing step (d), wherein the one or more thresholds are set to generate the alarm based on when an average of the audio level in the data stream is too high or too low, in order to monitor the audio presence and level within the data stream and to adjust the audio level as desired.

Claims 2,4-8,11,13-17,28 and 30 are allowed due to dependency on claims 1 and 10.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEVONA E. FAULK whose telephone number is (571)272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/  
Primary Examiner, Art Unit 2614